

Article 6.

Basic Rights.

§ 7B-600. Appointment of guardian.

(a) In any case when no parent appears in a hearing with the juvenile or when the court finds it would be in the best interests of the juvenile, the court may appoint a guardian of the person for the juvenile. The guardian shall operate under the supervision of the court with or without bond and shall file only such reports as the court shall require. The guardian shall have the care, custody, and control of the juvenile or may arrange a suitable placement for the juvenile and may represent the juvenile in legal actions before any court. The guardian may consent to certain actions on the part of the juvenile in place of the parent including (i) marriage, (ii) enlisting in the Armed Forces of the United States, and (iii) enrollment in school. The guardian may also consent to any necessary remedial, psychological, medical, or surgical treatment for the juvenile. The authority of the guardian shall continue until the guardianship is terminated by court order, until the juvenile is emancipated pursuant to Article 35 of Subchapter IV of this Chapter, or until the juvenile reaches the age of majority.

(b) In any case where the court has determined that the appointment of a relative or other suitable person as guardian of the person for a juvenile is the permanent plan for the juvenile and appoints a guardian under this section, the guardian becomes a party to the proceeding. The court may terminate the guardianship only if (i) the court finds that the relationship between the guardian and the juvenile is no longer in the juvenile's best interest, (ii) the guardian is unfit, (iii) the guardian has neglected a guardian's duties, or (iv) the guardian is unwilling or unable to continue assuming a guardian's duties.

(b1) If a party files a motion under G.S. 7B-906.1 or G.S. 7B-1000, the court may, prior to conducting a review hearing, do one or more of the following:

- (1) Order the county department of social services to conduct an investigation and file a written report of the investigation regarding the performance of the guardian of the person of the juvenile and give testimony concerning its investigation.
- (2) Utilize the community resources in behavioral sciences and other professions in the investigation and study of the guardian.
- (3) Ensure that a guardian ad litem has been appointed for the juvenile in accordance with G.S. 7B-601 and has been notified of the pending motion or petition.
- (4) Take any other action necessary in order to make a determination in a particular case.

(c) If the court appoints an individual guardian of the person pursuant to this section, the court shall verify that the person being appointed as guardian of the juvenile understands the legal significance of the appointment and will have adequate resources to care appropriately for the juvenile. (1979, c. 815, s. 1; 1997-390, s. 7; 1998-202, s. 6; 1999-456, s. 60; 2000-124, s. 1; 2003-140, s. 9(a); 2011-183, s. 3; 2011-295, s. 4; 2013-129, s. 16.)

§ 7B-601. Appointment and duties of guardian ad litem.

(a) When in a petition a juvenile is alleged to be abused or neglected, the court shall appoint a guardian ad litem to represent the juvenile. When a juvenile is alleged to be dependent, the court may appoint a guardian ad litem to represent the juvenile. The juvenile is a party in all actions

under this Subchapter. The guardian ad litem and attorney advocate have standing to represent the juvenile in all actions under this Subchapter where they have been appointed. The appointment shall be made pursuant to the program established by Article 12 of this Chapter unless representation is otherwise provided pursuant to G.S. 7B-1202 or G.S. 7B-1203. The appointment shall terminate when the permanent plan has been achieved for the juvenile and approved by the court. The court may reappoint the guardian ad litem pursuant to a showing of good cause upon motion of any party, including the guardian ad litem, or of the court. In every case where a nonattorney is appointed as a guardian ad litem, an attorney shall be appointed in the case in order to assure protection of the juvenile's legal rights throughout the proceeding. The duties of the guardian ad litem program shall be to make an investigation to determine the facts, the needs of the juvenile, and the available resources within the family and community to meet those needs; to facilitate, when appropriate, the settlement of disputed issues; to offer evidence and examine witnesses at adjudication; to explore options with the court at the dispositional hearing; to conduct follow-up investigations to insure that the orders of the court are being properly executed; to report to the court when the needs of the juvenile are not being met; and to protect and promote the best interests of the juvenile until formally relieved of the responsibility by the court.

(b) The court may authorize the guardian ad litem to accompany the juvenile to court in any criminal action wherein the juvenile may be called on to testify in a matter relating to abuse.

(c) The guardian ad litem has the authority to obtain any information or reports, whether or not confidential, that may in the guardian ad litem's opinion be relevant to the case. No privilege other than the attorney-client privilege may be invoked to prevent the guardian ad litem and the court from obtaining such information. The confidentiality of the information or reports shall be respected by the guardian ad litem, and no disclosure of any information or reports shall be made to anyone except by order of the court or unless otherwise provided by law. (1979, c. 815, s. 1; 1981, c. 528; 1983, c. 761, s. 159; 1987 (Reg. Sess., 1988), c. 1090, s. 5; 1993, c. 537, s. 1; 1995, c. 324, s. 21.13; 1998-202, s. 6; 1999-432, s. 1; 1999-456, s. 60.)

§ 7B-602. Parent's right to counsel; guardian ad litem.

(a) In cases where the juvenile petition alleges that a juvenile is abused, neglected, or dependent, the parent has the right to counsel and to appointed counsel in cases of indigency unless that person waives the right. When a petition is filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall appoint provisional counsel for each parent named in the petition in accordance with rules adopted by the Office of Indigent Defense Services and shall indicate the appointment on the juvenile summons or attached notice. At the first hearing, the court shall dismiss the provisional counsel if the respondent parent:

- (1) Does not appear at the hearing;
- (2) Does not qualify for court-appointed counsel;
- (3) Has retained counsel; or
- (4) Waives the right to counsel.

The court shall confirm the appointment of counsel if subdivisions (1) through (4) of this subsection are not applicable to the respondent parent.

The court may reconsider a parent's eligibility and desire for appointed counsel at any stage of the proceeding.

(a1) A parent qualifying for appointed counsel may be permitted to proceed without the assistance of counsel only after the court examines the parent and makes findings of fact sufficient

to show that the waiver is knowing and voluntary. The court's examination shall be reported as provided in G.S. 7B-806.

(b) In addition to the right to appointed counsel set forth above, a guardian ad litem shall be appointed in accordance with the provisions of G.S. 1A-1, Rule 17, to represent a parent who is under the age of 18 years and who is not married or otherwise emancipated. The appointment of a guardian ad litem under this subsection shall not affect the minor parent's entitlement to a guardian ad litem pursuant to G.S. 7B-601 in the event that the minor parent is the subject of a separate juvenile petition.

(c) On motion of any party or on the court's own motion, the court may appoint a guardian ad litem for a parent who is incompetent in accordance with G.S. 1A-1, Rule 17.

(d) The parent's counsel shall not be appointed to serve as the guardian ad litem and the guardian ad litem shall not act as the parent's attorney. Communications between the guardian ad litem appointed under this section and the parent and between the guardian ad litem and the parent's counsel shall be privileged and confidential to the same extent that communications between the parent and the parent's counsel are privileged and confidential.

(e) Repealed by Session Laws 2013-129, s. 17, effective October 1, 2013, and applicable to actions filed or pending on or after that date. (1979, c. 815, s. 1; 1981, c. 469, s. 14; 1998-202, s. 6; 1999-456, s. 60; 2000-144, s. 16; 2001-208, s. 2; 2001-487, s. 101; 2005-398, s. 2; 2011-326, s. 12(a); 2013-129, s. 17.)

§ 7B-603. Payment of court-appointed attorney or guardian ad litem.

(a) An attorney or guardian ad litem appointed pursuant to G.S. 7B-601 shall be paid a reasonable fee fixed by the court or by direct engagement for specialized guardian ad litem services through the Administrative Office of the Courts.

(a1) The court may require payment of the fee for an attorney or guardian ad litem appointed pursuant to G.S. 7B-601 from a person other than the juvenile as provided in G.S. 7A-450.1, 7A-450.2, and 7A-450.3. In no event shall the parent or guardian be required to pay the fees for a court-appointed attorney or guardian ad litem in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the parent's rights have been terminated. If the party is ordered to reimburse the State for attorney or guardian ad litem fees and fails to comply with the order at the time of disposition, the court shall file a judgment against the party for the amount due the State.

(b) An attorney or guardian ad litem appointed pursuant to G.S. 7B-602 or pursuant to any other provision of the Juvenile Code for which the Office of Indigent Defense Services is responsible for providing counsel shall be paid a reasonable fee in accordance with rules adopted by the Office of Indigent Defense Services.

(b1) The court may require payment of the fee for an attorney appointed pursuant to G.S. 7B-602 or G.S. 7B-1101.1 from the respondent. In no event shall the respondent be required to pay the fees for a court-appointed attorney in an abuse, neglect, or dependency proceeding unless the juvenile has been adjudicated to be abused, neglected, or dependent or, in a proceeding to terminate parental rights, unless the respondent's rights have been terminated. At the dispositional hearing or other appropriate hearing, the court shall make a determination whether the respondent should be held responsible for reimbursing the State for the respondent's attorneys' fees. This determination shall include the respondent's financial ability to pay.

If the court determines that the respondent is responsible for reimbursing the State for the respondent's attorneys' fees, the court shall so order. If the respondent does not comply with the order at the time of disposition, the court shall file a judgment against the respondent for the amount due the State.

(c) Repealed by Session Laws 2005-254, s. 2, effective October 1, 2005, and applicable to the appointment of counsel on or after that date. (1979, c. 815, s. 1; 1983, c. 726, ss. 2, 3; 1987 (Reg. Sess., 1988), c. 1090, s. 6; 1991, c. 575, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-144, s. 17; 2005-254, s. 2., 2014-115, s. 21; 2017-158, s. 25.)